

REMARKS

The specification has been amended to recite that the strain containing the plasmid recited in claim 9 (*i.e.*, plasmid pSSB103R) has been accepted for deposit at an International Depository Authority recognized under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure (*i.e.*, the DSMZ). See 37 CFR § 1.803 (a)(1).

It is submitted that no new matter has been introduced by the foregoing amendment. See MPEP. § 2406.01; *see also In re Lundak*, 227 USPQ 90 (Fed. Cir. 1985).

Upon information and belief, the undersigned certifies that all restrictions imposed by the depositor on the availability to the public of the deposited material set forth above will be irrevocably removed upon the granting of a patent.

The Examiner will note that the deposited material is specifically referred to in the specification (*see, e.g.*, page 36, lines 8-11).

Confirmation of this deposit is attached hereto as Exhibit 1.

For the foregoing reasons, favorable action on the merits, including entry of the amendment, withdrawal of the objections and rejections, and allowance of all the claims, respectfully is requested. If the Examiner has any questions regarding this paper, please contact the undersigned attorney.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box. 1450 Alexandria, VA 22313-1450, on July 18, 2005.

Charles M. Avigliano

Charles M. Avigliano, Reg. No. 52,578

Respectfully submitted,

By: Charles M. Avigliano

Charles M. Avigliano

Registration No. 52,578

BRYAN CAVE LLP

1290 Avenue of the Americas

New York, NY 10104-3300

Tel: (212) 541-2000

Fax: (212) 541-4630